

The Builder.

No. CV.

SATURDAY, FEBRUARY 8, 1845.



FROM the large number of letters that we continue to receive on the subject of the Metropolitan Buildings Act, and the eagerness with which all we say on it is canvassed, we find it necessary to return to that subject. As might have been expected, opinions differ as to the precise meaning to be attached to certain parts of the Act, and there seems to be this difficulty, that doubts cannot be resolved without expense. The point most discussed at the present moment, is the meaning of the word "commenced." We inserted two letters upon it in the last number of the journal, and have received many more since, the writers of which insist, that if an intention to build has been operatively demonstrated before the time specified in the Act, the building is commenced, and does not come under the control of the district surveyor. The following, which is signed "An Old Surveyor," may serve as an exponent of those who, regarding the word in its widest sense, hold this opinion:—

"Sir,—Above all controversies of the present day, disturbing the metropolitan building community, the most vexatious and absurd is the present unnecessary discussion upon the construction of a word which of all others is perhaps the least susceptible of quibble or evasion. Can any ambiguity attach to the term 'commenced before,' in contradiction to the term 'commenced after,' a certain date? Are they not the most comprehensive and definitive terms that can be employed to describe two opposite conditions? And these words, be it remembered, are employed in 'the construction of terms used' in the above Act to define these two opposite conditions. Nevertheless, upon these words a very absurd dispute has been raised by parties desirous of opposing the operations of builders; and some of the district surveyors have been called upon to assume the power of giving these words weight and force, or of divesting them thereof, according to the locality in which such buildings are 'commenced before 1st January, 1845;' thus requiring a construction to suit the interest or inclination of persons who call for the interference of those gentlemen. But what is more strange and unaccountable is that this extra-official duty has been regarded by some of the old-fashioned district surveyors as a proper point for dispute, and consequently for heaping additional labours unnecessarily on the official referees appointed by the new Act.

"In order to avoid the delays and uncertainties attendant on all new systems before they are thoroughly understood, many persons desirous of proceeding with their building, had 'commenced before the 1st January, 1845,' according to the provisions of the Act under such circumstances; but, in some cases, impediments having arisen to prevent the entire footings of some part of their building being laid down before the 1st January (though perhaps ten times more brick-work had, in reality, been built than would have been done had the whole of the footings inclosing the area of the proposed building been completed), yet, notwithstanding such a substantial demonstration of a building being in progress, so that he who runs may see that a building is 'commenced,' some of the surveyors have been pleased to cause the suspension of such buildings, and thus to set at naught the intention of the Act of Parliament, the terms whereof are 'so definitively settled by 'the construction of terms and expressions used in the Act,' which construction is evidently intended in rescue from all interested feelings whatever both the time and property of builders,

who might otherwise have been exposed to the mercy or caprice of any party."

Another correspondent writes, "It is a settled axiom that words employed in the construction of terms used in any Act to define the intention and meaning of such terms, are always to be read in the most comprehensive and general signification, as all Acts of Parliament are intended to be understood by those whom they purport to regulate, and not to become clap-traps for any body. This is more particularly the case in all penal statutes, which the Buildings Act, sec. 18, most unquestionably is, and no person has power to put any other construction on the terms of any Act contrary to or differing from the construction of terms forming part of such Act, and in no case are the words used to construe the terms of any Act, to be subject to any variation of reading or to any construction whatever, other than the general and universal sense and bearing of the words employed to construe the terms of such Act.

"In proof of the position here taken, you will observe that the terms used to describe the reverse of 'already built,' namely, 'hereafter to be built' are to apply to all Buildings to be built or commenced after, &c.; consequently, whatever is 'commenced' in any way 'before,' cannot be left to share the fate with those Buildings which are 'to be commenced after,' &c.; there really is no ambiguity about it.

"The more these words are looked at, the more comprehensive and absolute they become in the eyes of, Sir, your obedient servant,

SENEX."

Now, the referees have given as their general opinion that "the erection of the footings, with two or more courses of the walls themselves, built in a workmanlike manner," is a *bona fide* commencement.* Having regard to their judicial capacity, however, they consider it necessary that each case should be judged of under its particular circumstances; and it is much to be desired that a certain number of cases should at once be submitted to them and decided, by the result of which district surveyors and the public might be guided.

Shooting a load of bats on the proposed site of a building, or digging a few trenches, or even laying a few bricks, cannot surely constitute the commencement required by the Act; yet either of these is an "operative building demonstration," said by our correspondent, "Consiliarius," last week, to be all that is necessary to avoid the control of the surveyor. A hod of mortar made up, and a couple of bricks laid, might be termed so with equal truth, and called the commencement of a church, a theatre, a villa, or a union work-house, yet no one would venture to assert that this was sufficient.

Something more is required, then, than an "operative building demonstration" to constitute the commencement required by the Act, and the question is, how much? The answer really seems obvious: THE FIRST COMPLETE STAY MUST BE TAKEN; we must be able to see that a house is commenced, not merely that a wall is built; and this is the view we have little doubt that the official referees take of the matter.

In many cases where builders have exemption, we do not hesitate to say, they would do wisely were they to throw it up, and proceed under the Act, rather than complete structures badly begun. Buyers will be found more easily for houses constructed under its provisions, than for those which have been built in evasion of them. Knowing human nature, however, we hardly hope to persuade many to adopt this course.

We mentioned at the commencement that the construction to be put on doubtful points in the Act could not be decided without expense.

* See letter on this point from Mr. Greenway Robbins.

This is unquestionably so evil, and will tend to prevent the due administration of the law. In the first instance the official referees were willing to answer generally such questions as were put to them by the surveyors, but having regard to their judicial capacity, before alluded to, and knowing that these general replies might act injuriously, they asserted the necessity of hearing in each case the parties whose rights might be affected, before deciding; so that, if we are correct, in order to obtain a decision on any point, the surveyor must run the risk of having the costs of the inquiry to pay out of his own pocket. This, when the Act is understood, and the exact meaning of its various clauses has become established, may work satisfactorily; but it does not seem to do so at the present moment. An intermediate party appears to be required, and perhaps the best step the district surveyors could take under the circumstances would be the appointment of some person to act in all cases on their behalf, who might acquire the views of the official referees, and so save much trouble and expense.

Before leaving the subject, we would contradict a statement which has appeared in some of the newspapers to the effect that numerous families have been already ejected, under the provisions of the Buildings Act, from cellars and under-ground rooms not constructed in accordance with its provisions. The Act does not operate in this respect till the 1st of July, 1846.

ARCHITECTURE FOR THE POOR.

BY GEORGE GODWIN, F.R.S.

Public attention is at last aroused to the necessity of inquiring into and alleviating the condition of the poor, and men of all classes and in all countries are talking of improving the dwellings of the labouring classes and increasing their enjoyments. Whether or not they will do more than talk remains to be seen, for at present there is little of the "positive" to be appealed to as the result of the movement. Certain, however, it is that so much on the subject has never been said continuously before, nor an extensive machinery organised to effect it. There is a society for improving the condition of the labouring classes, there is a metropolitan association for improving the dwellings of the industrious classes, a proposal to open public nurseries for their children, an association for promoting the health of towns; country labourers' improvement societies, and committees for obtaining baths and wash-houses, parks and public gardens. Her Majesty the Queen calls on Parliament to promote the comfort of the poorer classes; all the newspapers are advocating the same noble cause; every landowner who expresses sentiments in favour of such improvements may rely on having his speech quoted, and every chairman of a committee whose report contains allusions to the dreadful state of the hovels occupied by the agricultural labourers, or the cellars and garrets crowded with the families of operatives in great towns, is certain of public sympathy and public applause. "Let us look at the cottages about us, and see how we can repair them, and make them comfortable at little expense," said his Grace of Norfolk at the late Arundel Christmas Show. "Let us make their cold cottages warmer than they are; let us look to their windows and their doors, and see if they keep out this desperate cold wind that is blowing, and even if we do no more, we shall add to their comfort. Put the poor man's cottage in order, and as quickly as you can, and he will bless you, and we shall all be united together; and the more we are united, the stronger we shall be, and the more able to meet our difficulties." And

* The health of the inhabitants of large towns and populous districts in this part of the United Kingdom has been the subject of recent inquiry before a Committee, the Report of which shall be immediately laid before you.

It will be highly gratifying to me if the information and suggestions contained in that Report shall enable you to derive the means of promoting the health and comfort of the poorer classes of my subjects. — Queen's Speech, Feb. 6th.